IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11745 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREE NETRANG VIBHAG DOODH UTPADAK COOPERATIVE SOCIETY & 1 - Petitioner(s)
Versus
ADDITIONAL REGISTRAR COOPERATIVE SOCITIES & 1 - Respondent(s)

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Appearance :
MR BS PATEL for Petitioner(s) : 1 – 2.
MS ML SHAL, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/09/2006

ORAL JUDGMENT

1. In this petition, the petitioners had challenged an order dated 29-05-2000. By the said order,

District Registrar, Bharuch was pleased to remove petitioner no.2 from the position of Manager of petitioner no.1 Society in exercise of powers under section 76-B of the Gujarat Cooperative Societies Act. It appears that against the said order, the petitioners had preferred an appeal before the Additional Registrar. The Additional Registrar by his order dated 21-9-2000 though substantially upheld the order dated 29-5-2000 passed by the District Registrar, Bharuch, was of the opinion that permanent removal is harsh, proceedings were therefore, remanded for the purpose of curtailing the period of penalty of removal. It was at that stage that the petitioners had approached this Court.

2. When the petition was pending, pursuant to the remand order, District Registrar passed its fresh order on 26-4-2001. In this order, District Registrar was pleased to provide that petitioner no.2 shall not hold the office of the Manager of the petitioner no.1-society or

any other society for a period of one year. The petitioners have therefore, with the permission of the Court amended the petition and also challenged the said fresh order dated 26-4-2001 passed by the District Registrar.

3. Learned advocate Shri Patel for the petitioners pressed in service the ground of authority of the District Registrar to pass the impugned order. It was contended that the petitioner no.1-society has area of operation extending beyond one revenue district. It is therefore, contended that the District Registrar would not be the authority to pass any order under Section 76-B of the said Act.

4. Specific averments have been made in this regard in the petition in which it is stated that area of operation of petitioner no.1-society is in 40 villages out of which Pomlapada which is in Dediyapada Taluka of Narmada District. Remaining villages are in Bharuch District. It is therefore, contended that District Registrar Bharuch could not have passed the impugned order

and if at all it was the Joint Registrar who could have initiated the proceedings. Notification of the Government dated 6-4-1991 is pressed in service in this regard. From the said notification it is pointed out that the Government has been pleased to delegate all powers of the Registrar to the Joint Registrar with respect to various provisions including section 76-B of the said Act in cases of societies including the petitioner-society where area of operation extends beyond one revenue district. With respect to the assertion of the petitioners that the petitioner-society has area of operation extending beyond one revenue district and that in such cases, notification dated 6-4-1991 would apply, there is no denial by the respondents on record.

5. Under the circumstances, this plea of the petitioners is required to be accepted.

6. In the result impugned order Annexure-G is quashed. It may be noted that order Annexure-A has emerged as subsequent order to Annexure-G passed by the District Registrar. It would

therefore, not be necessary to separately quash the said order. This would be without prejudice to the competent Authority to initiate fresh proceedings in accordance with law, if found necessary.

7. Subject to above observations, the petition is allowed. The petition is disposed of accordingly. Rule made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(raghu)